

**ALASKA STATE LEGISLATURE**  
**HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

March 9, 2021

3:06 p.m.

**MEMBERS PRESENT**

Representative Liz Snyder, Co-Chair  
Representative Tiffany Zulkosky, Co-Chair  
Representative Ivy Spohnholz  
Representative Zack Fields  
Representative Ken McCarty  
Representative Mike Prax  
Representative Christopher Kurka

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE SPECIAL CONCURRENT RESOLUTION NO. 1  
Disapproving Executive Order No. 119.

- MOVED HSCR 1 OUT OF COMMITTEE

HOUSE BILL NO. 76

"An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date."

- MOVED CSHB 76 (HSS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HSCR 1

SHORT TITLE: DISAPPROVING EXECUTIVE ORDER 119

SPONSOR(S): HEALTH & SOCIAL SERVICES

03/05/21 (H) READ THE FIRST TIME - REFERRALS  
03/05/21 (H) HSS  
03/09/21 (H) HSS AT 3:00 PM DAVIS 106

BILL: HB 76

SHORT TITLE: EXTENDING COVID 19 DISASTER EMERGENCY  
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/18/21 (H) READ THE FIRST TIME - REFERRALS  
02/18/21 (H) HSS, FIN  
02/19/21 (H) HSS REFERRAL REMOVED  
02/19/21 (H) BILL REPRINTED  
02/26/21 (H) FIN AT 1:30 PM ADAMS 519  
03/01/21 (H) HSS REFERRAL ADDED BEFORE FIN  
03/01/21 (H) BILL REPRINTED  
03/02/21 (H) HSS AT 3:00 PM BY TELECONFERENCE  
03/02/21 (H) Heard & Held  
03/04/21 (H) HSS AT 3:00 PM DAVIS 106  
03/04/21 (H) Heard & Held  
03/09/21 (H) HSS AT 3:00 PM DAVIS 106

#### **WITNESS REGISTER**

ANDREW DUNMIRE, Legislative Counsel  
Legal Services  
Division of Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HSCR 1, answered questions relating to HSCR 1 and Executive Order (EO) 119.

HEATHER CARPENTER, Healthcare Policy Advisor  
Office of the Commissioner  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HSCR 1, answered questions related to the resolution.

MIKE COONS, President  
Mat-Su Chapter of Association of Mature American Citizens Action  
Palmer, Alaska

**POSITION STATEMENT:** Testified in opposition to HSCR 1.

KIM KUKLIS  
Homer, Alaska

**POSITION STATEMENT:** During the hearing of HSCR 1, testified it is wrong to keep facilities and assistance closed to the public.

FRANCINE REUTER

Anchorage, Alaska

**POSITION STATEMENT:** During the hearing of HB 76, testified against continuing the emergency order.

CHANDRA CAFFROY

Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

HERMAN MORGAN

Aniak, Alaska

**POSITION STATEMENT:** During the hearing of HB 76, testified against continuing the emergency order.

KELSA BRANDENBURG

Dillingham, Alaska

**POSITION STATEMENT:** Testified in support of HB 76.

LOUIS IMBRIANI

Eagle River, Alaska

**POSITION STATEMENT:** During the hearing of HB 76, testified that passing the bill would still not fix the problem.

PAMELA FAMISH

Nenana, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

MIKE COONS, President

Mat-Su Chapter, Association of Mature American Citizens Action

Palmer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

KATHRYN MAWERY

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

BEATRICE HUCK

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

ELIZABETH HOLMES

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

JONATHAN GALIN

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 76.

LEONARD SABICH  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

EDWARD MARTIN  
Cooper Landing, Alaska

**POSITION STATEMENT:** During the hearing of HB 76, testified in opposition to giving this power to the governor.

ADAM HYKES  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

MARSHALL SEVERSON  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 76.

JENNIFER MEYER  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 76.

JESSIE CHILSTROM  
Palmer, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

ANNIE MASSEY  
Eagle River, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 76.

#### **ACTION NARRATIVE**

[3:06:20 PM](#)

**CO-CHAIR TIFFANY ZULKOSKY** called the House Health and Social Services Standing Committee meeting to order at 3:06 p.m. Representatives Fields, Spohnholz, McCarty, Prax, Kurka, Snyder, and Zulkosky were present at the call to order.

CO-CHAIR SNYDER related that there was a misunderstanding last week about whether the administration had provided a response to questions submitted by committee members. She apologized for the committee's oversight in missing the administration's response. She offered the committee's appreciation for the collaboration provided by the senior leadership of the

[Department of Health and Social Services (DHSS)] and Suzanne Cunningham, [Special Assistant to the DHSS Commissioner].

CO-CHAIR ZULKOSKY offered her appreciation as well to DHSS [for its collaboration] as the committee has considered Executive Order (EO) 119 and [HB 76], the proposal to extend the COVID-19 disaster declaration. She said the committee has heard loud and clear from stakeholders, healthcare leaders, tribes, and entities representing diverse interests that these are consequential policy issues of great importance.

### **HSCR 1-DISAPPROVING EXECUTIVE ORDER 119**

[3:08:42 PM](#)

CO-CHAIR ZULKOSKY announced that the first order of business would be HOUSE SPECIAL CONCURRENT RESOLUTION NO. 1, Disapproving Executive Order No. 119.

CO-CHAIR ZULKOSKY explained that she and Co-Chair Snyder would take turns presenting HSCR 1. She handed the gavel to Co-Chair Snyder so she could provide her portion of the presentation.

[3:09:34 PM](#)

The committee took a brief at-ease.

[3:09:37 PM](#)

CO-CHAIR ZULKOSKY began her presentation on HSCR 1. She spoke as follows:

On December 22, 2020, the governor announced that he advised the Department of Law to draft an executive order to reorganize the Department of Health and Social Services into the Department of Health and the Department of Family and Community Services. Then on January 20, [2021], Executive Order [EO] 119 was transmitted to the Senate where it was introduced on January 25. Per Article III, Section 23, of the Alaska Constitution, quite simply HSCR 1 disapproves of the enactment of Executive Order 119. Given the enormity of the proposed executive order, I would like to discuss the basis for the proposed disapproval.

Alaska's Department of Health and Social Services oversees the delivery of crucial programs that offer

essential services and supports to families, elders, and vulnerable Alaskans across the state from overseeing health coverage to low-income Alaskans through Medicaid, to ensuring permanency and wellbeing of children served by the Office of Children's Services [OCS], to providing emergent and court ordered inpatient psychiatric services at the Alaska Psychiatric Institute, also known as API. And yet the department is faced with significant challenges, including high turnover rates and burnout of OCS workers, having a significant disproportionate representation of Alaska Native children in the foster care system, and significant accreditation and safety issues that have long plagued API, to name a few.

The breadth of important programs, importance of finding solutions to much-needed programs in crisis, and magnitude of resources required by the department is clear. While the department has clearly demonstrated the need for improvements in the way and services Alaska provides for our most vulnerable, what has not been demonstrated is that Executive Order 119 is the vehicle to do so.

[3:12:19 PM](#)

Instead, it has become clear through committee consideration of the executive order that EO 119 is wrought with program, legal, and fiscal ambiguities that carry real consequences for Alaskans. In the administration's initial announcement about this executive order and the commissioner's subsequent presentations to this committee, it was stated that the reorganization will "streamline and improve the delivery of critical programs and services while creating more flexibility and responsiveness that ultimately result in improved outcomes."

But, as we heard in testimony from Casey Family Programs, the nation's largest operating foundation focused on safely reducing the need for foster care, there is no research or evidence of an ideal organizational structure which exist. Positive outcomes cannot be attributed to a particular model and no research provides evidence that reorganization improves accountability or service quality. However, what has been well evidenced is that transition to a

new structure can take ... two to five years with at least one or more years for planning, preparation, and stakeholder engagement.

I commend the department for its recent and ongoing efforts to engage tribes, nonprofits, and healthcare entities on this proposal, and would like to thank the department for the March 4 follow-up to the committee in which they provided their schedule for public engagement. But as we heard resoundingly from stakeholders in the field, there was no meaningful engagement in the development of this executive order.

3:13:53 PM

In fact, the schedule for public engagement provided by the department shows the majority of work with stakeholders, including townhalls with employees that will be impacted, occurred after the governor's press event announcing this action, effectively cutting the department's tribal healthcare and nonprofit partners from having a hand in shaping the future of the department and attributing to the solutions looking to be realized across it. As Alaska Native Health Board chairman Andrew Jimmie wrote in a February 26 letter to the commissioner on this issue, tribes should have fundamentally been involved in the decision-making process. I believe this extends to all stakeholders impacted by Executive Order 119.

With regard to legal ambiguity, in a February 25 memo from the Department of Law regarding background on EO 119 Chief Assistant Attorney General Stacie Kraly affirms that an executive order "may not be used to enact new substantive law before outlining what statutes the administration believes have been properly passed by the legislature." This is in stark contrast to the March 5 memo provided by the legislature's nonpartisan Legal Services Division which outlines in detail multiple examples where Executive Order 119 "impermissibly creates substantive changes to existing law." While the governor may reorganize executive departments "he may not delete or add functions or make other substantive changes." In just one example, Section 130 of EO 119 repeals the definition of crisis stabilization center and does not replace it anywhere else in Alaska statutes. The

opinion goes on to note that this change will have unintended consequences.

Alaska's constitution charges the legislative branch with crafting the broad contours of Alaska's policy and budgetary direction, and the executive branch with the enactment of the policies and budgets that the legislature directs. By allowing the executive to usurp the legislature's constitutionally mandated powers we would be violating the systems of checks and balances laid out by the framers of our constitution as well as potentially putting at risk a number of programs that are essential to Alaskans across the state at a time when they rely on them the most.

3:16:19 PM

Finally, the administration has claimed that while some costs come along with this reorganization, ultimately, they say, the budget for two departments would be less than the FY 21 [fiscal year 2021] DHSS budget. Yet the cost savings referred to in the presentation on this proposal hinge on the elimination of positions that exist under the department's current structure, and instead we know the committed investments through this proposal are for high-cost executive positions. So as the legislature continues our work to diligently comb through agency budgets to find cost savings and cut programs that serve Alaskans directly, this proposal would guarantee we are adding top heavy government salaries in perpetuity. Cutting frontline positions like public assistance eligibility specialists and clinicians or psychiatrists at API in favor of increases to overhead expenses and leadership positions is neither a fiscal nor policy practice I can support.

It is also worth considering what we are putting at risk if the department fails to deliver on the promise to reorganize seamlessly, which could mean a massive reorganization of the state's largest department costing an unforeseen amount of money than what is ambitiously projected. This means more waste for administrative time and less resources for enacting desired solutions for children and families in crisis, supports for seniors and disable Alaskans, and



ensuring staff and patients at high needs facilities like API are safe and care for.

Further, we would be losing funding for these programs during an economic and public health crisis at a time when Alaskans are relying on essential services more than ever. The programs overseen by the Department of Health and Social Services, from Medicaid and Behavioral Health to the Alaska Pioneers' Home and the Office of Children's Services, play a vital role in keeping Alaska communities across the state healthy. The department has clearly demonstrated a need to evaluate the way programs are administered, however they have not been able to meet the policy, legal, and fiscal thresholds that would allow the legislature to sign off on this substantial reorganization without putting Alaskan families and the legislature's constitutional authority at risk. I would like to thank the committee for their time and ask that we all support passing House Special Concurrent Resolution 1.

3:18:50 PM

The committee took a brief at-ease. [Co-Chair Snyder returned the gavel to Co-Chair Zulkosky.]

3:19:24 PM

CO-CHAIR SNYDER began her portion of the presentation on HSCR 1, disapproving Executive Order (EO) 119. She thanked committee members for their thoughtful consideration of EO 119. She also thanked those who provided written and oral testimony as well as the leadership and employees of DHSS. She offered her gratitude to DHSS employees for their tireless work through the COVID-19 pandemic, noting that they have provided critical evidence-based guidance and communications, implemented essential mitigation measures, ensured access to testing, promoted access to vaccinations, and connected Alaskans to needed support services. Co-Chair Snyder said the department's efforts in combination with tribal partners have resulted to date in the third lowest death rate in the country, successful efforts at flattening the infection curve, and one of the highest vaccination rates in the country. She stated she is grateful for the department's dedication and expertise as everyone works to ensure these trends continue and Alaska can begin its road to recovery.

CO-CHAIR SNYDER emphasized that she doesn't want her support for HSCR 1 to overshadow her gratitude for the department. Rather, she continued, her support of the resolution reflects the value placed on the work of the department and her respect for the people who carry out that work in the service of Alaskans, the many partner organizations that facilitate connections with the public, and the public themselves. She added that the pandemic has truly highlighted the importance of the department's many moving parts and the services it provides to Alaskans, and that all Alaskans need DHSS to succeed. Co-Chair Snyder continued her summary of the motivations for HSCR 1 as follows:

3:21:43 PM

Similarly, the questions we have asked of the department regarding EO 119 is a reflection of the seriousness with which we legislators take our duty to helping ensure our governmental agencies meet the needs of Alaskans. The questions we have asked have been direct, intentional, and reasonable. What is the plan? How have stakeholders been engaged? What will it cost? What is the evidence supporting this plan? And what are the metrics for success?

Knowing the department's successes, I think many of us can agree that the department, for all of its fantastic services and accomplishments, also has room for improvement, as we all do. Improvement in efficiencies. Improvement in timely, thorough, and compassionate care for Alaskans. And improvement in access and communication.

I understand that these needs for improvement are what motivated the creation of EO 119. These proposed changes would automatically go into effect if the legislature does not vote to disapprove by March 21, less than two weeks away. These proposed changes would also coincide with changes currently outlined in the FY 22 budget, including the elimination of over 100 department positions affecting the Division of Public Assistance, Juvenile Justice, and the Alaska Psychiatric Institute.

While it is clear that changes need to be made to the operations and possibly to the organization of the department to improve services and functionality, it is not clear that bifurcation and the addition of

several new high-level positions is the answer. And make no mistake, if we get this answer wrong the victims of the fallout most likely aren't most of us sitting in this room today. Those negatively impacted are vulnerable Alaskan children in unsafe homes. Children and families who don't know where their next meal is going to come from. A caretaker of an Alaskan with mental health challenges who has nowhere to turn. Elders facing increased uncertainty about how they will live out their golden years. And the father and his son who is struggling with addiction and finding treatment. I want to keep these Alaskans in the forefront of our minds today. We owe it to them to get this right.

3:24:02 PM

The resolution is not a complete disapproval of department reorganization. Rather, it's a way to give us the time needed to make the best decision for Alaska. While the discussions in this committee have been a great starting point, they are just that - a starting point. There are still many questions that have been left unasked and unanswered. We need to give the public, stakeholders, and the legislature the time to ask them, and the department and administration the time to answer them. With the looming deadline of the EO we have not been afforded that time.

As Co-Chair Zulkosky said and is highlighted in the legislative legal memo, there are significant legal concerns around the EO. There are substantive changes to existing law, which impedes on the legislature's authority. There is also mention of significant litigation risk, which would take away from the department, the administration, and the legislature's time and resources. If we are aiming to be efficient, risking a lawsuit is not the way.

In addition to what [Co-Chair] Zulkosky covered, it's also worth highlighting that there is a lack of clarity regarding authorities between the two newly proposed departments and the creation of new board positions and resulting imbalance in representation regardless of whether the new member can vote or not.

The savings or costs of EO 119 are still unclear. The plan relies on a net loss of 139 full-time positions, positions that work directly with providing services for Alaskans. But it adds 13 new executive branch positions that would cost \$1.8 million. The department is already understaffed. It is difficult to see how cutting positions even with bifurcation would increase the quality of services provided to Alaskans. Additional cost associated with bifurcation will include, but are not limited to, changes in signage, IT licensing, and recruitment, but these costs are unclear.

3:26:06 PM

[Co-Chair] Zulkosky clearly outlined the concerns regarding the approach taken to stakeholder engagement. While we commend the submitted plans for including continued engagement the cart was put before the horse, so to speak. With EO being crafted and announced prior to meaningful engagement with stakeholders to inform it. And as a reminder to those members of the public who are following along, an EO cannot be amended. As a result, we've heard overwhelming pushback or concern from a broad suite of partners, many of whom are on the stakeholder list provided by the department.

Please let me be clear, this is a committee that wants to find responsible effective solutions, and we thank leadership at the department for initiating this important and long overdue discussion. I look forward to continued conversations with the department and the administration, the public, and other stakeholders to find ways to improve the Department of Health and Social Services as well.

Again, while we currently lack the evidence that the EO is the best path forward for the department, EO 119 started an important conversation, and we need to continue having it. I welcome continued engagement with stakeholders, more detailed reports of major findings or transition plans for review, or even a task force like the ones we've seen in previous administrative orders and economic development initiatives in Alaska.

We look forward to contributing to this effort, recognizing that HSCR 1 is not a no on reorganization, but a vehicle for increasing public trust, time, transparency, and stakeholder engagement for any significant department changes. I urge a yes vote from committee members.

[3:27:52 PM](#)

The committee took a brief at ease.

[3:27:56 PM](#)

CO-CHAIR ZULKOSKY invited committee members to ask questions in relation to HSCR 1.

REPRESENTATIVE FIELDS asked whether the lack of a severability clause potentially puts the entire EO at risk if any of EO's individual provisions were challenged by a party with standing.

[3:29:04 PM](#)

ANDREW DUNMIRE, Legislative Counsel, Legal Services, Division of Legal and Research Services, Legislative Affairs Agency, replied he would like the opportunity to do more research before he gives a formal answer. He said his sense is that because this is an all or nothing proposition in the way that the EO either gets disapproved by the legislature or becomes effective by law, and because theoretically speaking there should be no changes to the law in an executive order, he does think there would be that kind of risk if the EO goes through.

[3:29:49 PM](#)

REPRESENTATIVE PRAX requested Mr. Dunmire to summarize the legal challenges/substantive changes he sees with EO 119.

MR. DUNMIRE responded with his belief that there are four boards which would be impacted by EO 119 by increasing the number of members serving on each of the boards. He said there are some changes to substantive law. For example, he stated, Section 2 changes which nurses are allowed to pronounce a patient dead; the definition of "crisis stabilization center" is deleted and that would have an impact on Title 12 which is the Code of Criminal Procedure has a provision that relies on that definition to give peace officers the authority, he believes, to

arrest people without a warrant. There are several substantive changes in the EO, he added.

REPRESENTATIVE PRAX stated he is looking for a list of Mr. Dunmire's concerns so the committee could discuss each one. He inquired whether crisis [stabilization] center, as mentioned by Mr. Dunmire, is defined in any of those statutes.

MR. DUNMIRE answered he would have to get back to the committee with an answer. He said his [legal memo dated 3/5/21] is available on BASIS and that it details all the substantive changes to the law that would be enacted by EO 119.

[3:33:03 PM](#)

REPRESENTATIVE PRAX asked whether the crisis [stabilization] center itself would go away if there was no definition of it in statute. He further asked what the effect would be if crisis [stabilization] center is not defined in statute.

MR. DUNMIRE replied that the fallout would be that an existing statute that relies upon that definition by directly citing to it would no longer have a definition. So, it would render a statute that currently has a definition to be more ambiguous.

REPRESENTATIVE PRAX stated that somebody taking a person to a crisis [stabilization] center would still know where to take that person. He said a definition therefore doesn't strike him as important or significant and that it could be sorted out in regulation or in the court. He requested Mr. Dunmire to explain the importance of a definition.

MR. DUNMIRE responded that AS 12.25.031(a) currently allows a police officer as an alternative to an arrest to deliver someone to a crisis stabilization center under certain circumstances. This is a procedure that police officers would use instead of taking somebody to jail, he explained, but to follow the law, police officers must know what the law is. Currently that provision of the statute cites to the definition of crisis stabilization center that would be repealed under EO 119, which would cause some ambiguity in those types of situations. But, he continued, the facilities that are crisis stabilization centers would still exist.

[3:35:47 PM](#)

REPRESENTATIVE MCCARTY stated that his reading of EO 119 is that the intent is there to find ways to resolve issues to help people in Alaska. He said EO 119 is not to avoid responsibility of services, but to find other ways of organization management. Regarding crisis stabilization, he noted that the Mental Health Trust and various institutions throughout Alaska have spent much time and money on "a Crisis Now program, which the whole concept seems to be in that format there." He said he also knows "words mean a lot and funding for different programs have to be defined in the words." This is an all or nothing type of proposal, he continued, with great things in it, things in question, and things that still need to be defined. As to EO 119 removing [crisis stabilization center], he asked Mr. Dunmire whether it is accurate to say that words mean a lot as far as the state's ability for being able to collect for services like Crisis Now. He further asked Mr. Dunmire to respond to the concern that it's all or nothing.

MR. DUNMIRE answered he doesn't know how the removal of that definition might impact funding but said Legal Services can investigate that and provide a thorough legal analysis. As to whether this would be severable or subject to being repealed in whole in a lawsuit, he said he certainly thinks that is a risk that could happen.

[3:38:54 PM](#)

REPRESENTATIVE FIELDS followed up on Representative Prax's question by referring to a letter written by the Anchorage Police Department Employees Association (APDEA). He specified that the concern is not so much the physical facility but the authority. He said the letter states:

I write today my support for HSCR 1 and my disapproval of EO 119's potential negative impacts. The language in AS 12.25.031 which allows for police officers to use their discretion to take a person suffering from an acute behavioral health crisis to a crisis stabilization center in lieu of arresting them is necessary and fully supported by APDEA.

REPRESENTATIVE FIELDS interpreted this to mean that the police are telling the committee that it is very risky for a police officer to do something for which the officer doesn't have clear statutory authority. He related that in his district behavioral health issues and public safety are intimately connected and it is important for the police to have that ability. He said he

doesn't want to endanger what the municipality and others have done in terms of crisis stabilization. Obviously, the facilities are going to be there, he continued, but if the police don't have authority to take folks there then they don't function.

[3:40:07 PM](#)

REPRESENTATIVE SPOHNHOLZ pointed out that currently the state doesn't have any actual crisis stabilization centers. She related that it's a goal of the administration and the Mental Health Trust Authority to create crisis stabilization centers and be able to divert people away from emergency departments, in-patient psychiatric facilities, and jails so that mental health can be decriminalized, and people can get the treatment they need. She said important reform being advanced by this administration and the Mental Health Trust Authority would be seriously undermined if creating the new crisis stabilization centers, envisioned as a part of Crisis Now, is not allowed in statute when it was passed by the legislature just last year.

[3:41:08 PM](#)

REPRESENTATIVE PRAX asked whether anyone is online from the administration who could address the points brought up in the Legal Services memo.

[3:41:50 PM](#)

HEATHER CARPENTER, Healthcare Policy Advisor, Office of the Commissioner, Department of Health and Social Services (DHSS), replied that the Department of Law (DOL) received the Legal Services memo on Saturday [3/6/21], is still doing internal analysis, and has a meeting scheduled with Legal Services for tomorrow [3/10/21]. She related that DOL has been asked by the Senate Finance Standing Committee to testify next to DHSS on these questions on Thursday [3/11/21]. So, she continued, a speedy turnaround is expected to the questions raised by Legal Services.

[3:43:01 PM](#)

The committee took a brief at ease.

[3:43:35 PM](#)

CO-CHAIR ZULKOSKY opened public testimony on HSCR 1.



[3:44:02 PM](#)

MIKE COONS, President, Mat-Su Chapter of Association of Mature American Citizens (AMAC) Action, related that his organization has been briefed by Commissioner Crum on the splitting of DHSS. He said working toward billing the work in a timely and cost-effective manner is good business practice. Government is not business, he continued, and that explains the over-the-top costs to government versus businesses which give out services and do so with a profit. This split, he asserted, will give all Alaskans a far better "bang for the buck" that government so far has not ever given. He stated that his organization supports the splitting of DHSS in the manner that the governor and Commissioner Crum have done. He urged the committee to vote no on HSCR 1.

[3:44:55 PM](#)

KIM KUKLIS testified it is wrong to extend this executive order and keep facilities and assistance closed to the public. She said she works in healthcare, and it is unreal when watching people on the streets with doors closed, facilities closed, support systems closed, and seeing sadness in the eyes of little ones in the schools knowing what they're going to at home. "Some of the top healthcare providers that are running this whole executive COVID thing," she continued, "it's just disheartening, and it hurts my heart to even be affiliated with some of the healthcare because it's just become such a power link." She stated she wants the governor and all the folks who are giving out information to keep things closed to realize that they're in their positions because they are supposed to be serving the needy public that needs advocates. She said she hopes somebody does the right thing.

[3:48:45 PM](#)

CO-CHAIR ZULKOSKY closed public testimony after ascertaining no one else wished to testify on HSCR 1.

[3:48:53 PM](#)

CO-CHAIR SNYDER moved to report HSCR 1 out of committee with individual recommendations and the accompanying zero fiscal note.

[3:49:23 PM](#)

REPRESENTATIVE PRAX objected. He said it seems the discussion and testimony on Executive Order 119 is either too far down into the details that cannot be known at this time or concern about the level of services. He stated he hasn't seen any indication that the department intends to reduce or eliminate any services at the service level and the intent is to help the department run more efficiently. He said it makes sense for a department this large to have its own director so that that person can pay attention to fewer things and pay closer attention to the fewer things. With one commissioner in charge of a very broad range of services, it's very difficult to focus on any one thing, he argued. It is his experience, he related, that when large or small companies are structured with smaller units where people can focus on a specific thing those units tend to run better. This is a sound idea in principle, he stated, and he supports the administration's efforts. Regarding the general public's concern about the level of service, Representative Prax said he doesn't think there's any intention to lower those services. He maintained it would not work to have dozens or hundreds of stakeholders engaged in the process of trying to determine something at the end. It must be allowed to play out, he added, and odds are it will be found that some changes need to be made.

[3:52:37 PM](#)

REPRESENTATIVE PRAX continued speaking to his objection. He stated the committee should wait until [3/11/21] to hear the discussion about the specific legal objections. For example, he explained, his focus on the definition of a crisis center is because he is pretty sure that the Fairbanks police do deliver people to places other than jail. Functionally it would be understood as a crisis center, he asserted, and might be a place that deals with alcoholism or something else. There might be lots of facilities that are understood to function as a crisis center and could be defined in regulation or contract. Therefore, he argued, crisis center should not be defined in statute because there are many variations to what it could be. It is an example of getting too far into the details when the focus needs to be on the higher level.

REPRESENTATIVE PRAX further stated that the purpose of an executive department is to review its organizations and come up with how to run the business that the legislature has directed the executive department to run. He maintained it doesn't work to have 60 people trying to figure out how to tell the executive

to do something. That's the executive's job and that's what has been done, he added, and the legislature should support that.

3:54:51 PM

REPRESENTATIVE SPOHNHOLZ asserted that words, details, and language matter and are literally the work that the legislature does. On the House floor and in committee, she pointed out, legislators have had detailed substantial conversations about a single word because the words that the legislature approves or disapproves impact the lives of hundreds of thousands of people. Alaska has sobering centers, addiction treatment centers, and in-patient psychiatric institutions, she continued, but Alaska does not currently have crisis stabilization centers, which are needed to divert people away from prisons and emergency departments.

REPRESENTATIVE SPOHNHOLZ specified that the [Legal Services] memo has identified many flaws and numerous unconstitutional provisions in the EO. These are not unsubstantial changes, she stressed, but changing law in a way not permitted by the Constitution of the State of Alaska. There are very significant errors. As was said in testimony, she continued, if it's a good idea now it will still be a good idea in 6-12 months when there has been a chance to do the work and engage stakeholders.

3:56:30 PM

REPRESENTATIVE SPOHNHOLZ outlined the things she believes are particularly salient about the EO. She pointed out that drafting errors in an executive order cannot be corrected by the legislature, it is an "all or nothing" vote, a yea or nay. There are substantial changes in the EO that are problematic, she said, so she will oppose EO [119] and support HSCR 1. One problem is the changing of board membership from nine to ten members, she opined, which is a significant expansion of power on the administration's part. Not only is an odd number important for resolving issues, she said, but it would add additional administrative members. She recalled [Commissioner Crum] stating that it shouldn't matter because the legislature confirms members of those boards. She allowed that that's true but noted that every one of those boards was crafted in law in a very carefully negotiated compromise. So, she argued, the EO to expand those boards and have additional administrative positions on them is a massive expansion of power, and the EO would change multiple boards in that way. Representative Spohnholz noted the committee has already discussed the elimination of the crisis

stabilization centers which are important to the reforms being looked at. She said the EO also eliminates the Criminal Justice Commission and creates the Criminal Justice Information Advisory Commission. While this was recommended by legislative auditors, she maintained that it needs to be done in statute because it is a very significant change that needs to be discussed in detail. Representative Spohnholz further pointed out that the EO dramatically expands the administration's authority to issue regulations and that the administration has said not to worry because there's an extensive public review process for approving new regulations. However, she continued, this administration has advanced numerous emergency regulatory packages, including rate cuts and new regulations for implementation of the [Medicaid] 1115 Waiver, and didn't respond to the public input on those, creating much heartache and headache for the people providing those services and who didn't have a chance to get their input delivered. It's a disingenuous statement to say [DHSS] has a robust public process, she charged.

[3:59:38 PM](#)

REPRESENTATIVE SPOHNHOLZ added that she is not opposed to reorganizing DHSS and agrees with the commissioner's position that additional leadership is needed to manage some of the complicated challenges had by the department, given it is roughly a \$3.4 billion organization. But how that is done really matters, she said. Last year the administration proposed adding a couple executive positions, she stated, but this year a massive expansion of 13 new senior executives is proposed. There are many problems with this, she asserted, and it's such a massive expansion of power on the administration's part that it would be irresponsible to approve it. She stated that voting for HSCR 1, declining EO 119, is the only responsible thing to do for the people of Alaska and to avoid the risk of certain lawsuits that would happen if this executive order were allowed to go through.

[4:00:52 PM](#)

REPRESENTATIVE FIELDS thanked the stakeholders who weighed in. He said he is particularly concerned about the ability of police to deal with people in mental health crisis, about impacts on foster care articulated by Facing Foster Care, and about impacts on OCS and vulnerable children as heard from tribal leaders. He acknowledged DHSS has many hard working and inspiring staff who have done incredible work in the last year. He said he hopes it

is ensured that any proposed reorganization has sufficient time to be executed smoothly and in coordination with stakeholders.

[4:01:31 PM](#)

REPRESENTATIVE KURKA explained he is conflicted because of the big concerns about legislative authority brought up by Mr. Dunmire. There has been a lot of long-term erosion of things that are clearly the legislature's responsibility in the constitution, he opined. He said he would like to hear the Department of Law's answers before deciding whether to support the current version of EO 119 and, until he hears those answers, he cannot support HSCR 1.

[4:02:10 PM](#)

REPRESENTATIVE MCCARTY offered his understanding that only the executor can amend the executive order and legislators have many questions but cannot make any changes to the EO. However, he opined, in just a few days people will be presenting to the questions and it would be appropriate to postpone this vote to give fair audience to those people and the questions. He stated he is concerned about several things in the EO and sees the expeditious need to serve the people of Alaska. He said many interesting things have happened with COVID-19 and reassessing management of operations of different things. He suggested the vote be postponed until after the answers are heard.

[4:03:27 PM](#)

The committee took a brief at-ease.

[4:06:52 PM](#)

CO-CHAIR SNYDER said she appreciates the desire to wait to vote until hearing from the Department of Law regarding the Legal Services memo. However, she stated, the committee is in a predicament with the timing and looming deadline of 3/21/21. If HSCR 1 isn't passed out of committee today, she continued, being able to vote on this in joint session would be in serious jeopardy given the remaining steps that must be taken. Something might be heard from the Department of Law this week that puts Representative McCarty in opposition to EO 119, she said, but there wouldn't be the chance to consider it together in joint session. It isn't just issues with the Legal Services memo, she opined, but also the issues around stakeholder engagement, details of the plan, and unknown and unclarified

costs that are enough for her to want to be able to bring this to a vote in joint session.

4:08:09 PM

CO-CHAIR ZULKOSKY asked whether Representative Prax maintained his objection.

REPRESENTATIVE PRAX appreciated folks wanting to be cautious, and that members' only options are do nothing or say no, and that the deadline is 3/21/21. He suggested there would be enough time for committee members to listen to the discussion in the Senate hearing [on 3/11/21] and then the committee could meet that afternoon or the following day [3/12/21] to pass or not pass [HSCR 1].

CO-CHAIR ZULKOSKY noted the concerns are about constitutional authority, fiscal ambiguity, and program ambiguity. She said the House has an opportunity to consider HSCR 1, the Senate will be considering a special concurrent resolution, and then the bodies meet in joint session, so there is nothing that goes to the floor. She specified that the 3/21/21 deadline is a deadline that is set in constitution and is what puts the legislature against a timeclock that otherwise wouldn't be there. She reiterated that if this is a good idea now, it will continue to be a good idea six months from now. She offered her belief that the committee's intent is to make a consideration on HSCR 1. She surmised Representative Prax maintained his objection to moving the resolution from committee today.

4:10:53 PM

REPRESENTATIVE PRAX maintained his objection. He stated he would like to ask the administration what the consequences might be of the legislature declining [the EO] and whether it could be brought back the next day and the process started over again or a significant setback if this turns out to be a good idea.

CO-CHAIR ZULKOSKY outlined the timeline under which the administration proposed EO 119: EO announced by the governor on December 22, [2020], work done with the Department of Law for about a month, EO read across the Senate floor on January 25, [2021]. It is now the beginning of March and there has been ample opportunity for engagement on this issue, she said. She stated she would not entertain prolonged discussion as the committee has had opportunity for dialogue today. She stated that consideration and clarity will be forthcoming in the Senate

and recommended that this body tune into that and follow along in the process.

CO-CHAIR SNYDER pointed out that the committee is required to give adequate notice if it holds additional meetings, which adds additional days when calculating backward from the deadline.

[4:13:03 PM](#)

The committee took a brief at-ease.

[4:16:18 PM](#)

REPRESENTATIVE KURKA stated that considering the schedule he would like the opportunity to vote on the floor on HSCR 1 but has not yet decided whether he supports the executive order. If the resolution is not passed out of committee, he continued, then members will not have the opportunity to stop the executive order if that is what they want to do, and therefore he will support the resolution.

[4:16:45 PM](#)

A roll call vote was taken. Representatives Spohnholz, Fields, McCarty, Kurka, Zulkosky, and Snyder voted in favor of reporting HSCR 1 from committee. Representative Prax voted against it. Therefore, HSCR 1 was reported from the House Health and Social Services Standing Committee by a vote of 6-1.

[4:17:41 PM](#)

The committee took an at-ease from 4:17 p.m. to 4:22 p.m. to sign the committee reports.

#### **HB 76-EXTENDING COVID 19 DISASTER EMERGENCY**

[4:22:03 PM](#)

CO-CHAIR ZULKOSKY announced that the final order of business would be HOUSE BILL NO. 76, "An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket

sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date." [Before the committee was the proposed committee substitute (CS) for HB 76, Version 32-GH1011\B, Dunmire, 3/3/21, ("Version B"), adopted as a work draft on 3/4/21.]

[4:22:55 PM](#)

CO-CHAIR ZULKOSKY specified that 18 amendments to Version B are proposed for the committee's consideration today.

[4:23:14 PM](#)

The committee took an at-ease from 4:23 p.m. to 4:26 p.m.

[4:26:11 PM](#)

CO-CHAIR ZULKOSKY offered her appreciation for the committee working its way through these big policy considerations.

[4:26:21 PM](#)

The committee took an at-ease from 4:26 p.m. to 4:27 p.m.

[4:27:26 PM](#)

REPRESENTATIVE MCCARTY stated he would not offer Amendment 1.

[4:27:40 PM](#)

CO-CHAIR ZULKOSKY asked whether Representative McCarty [would not be offering] Amendments 2 through 16.

REPRESENTATIVE MCCARTY confirmed he [would not be offering] Amendments 2 through 16.

[4:27:50 PM](#)

REPRESENTATIVE KURKA moved to adopt Amendment 17, [labeled 32-GH1011\B.2, Dunmire, 3/5/21], which read:

Page 1, lines 8 - 9:

Delete **"relating to personal objections to the administration of COVID-19 vaccines;"**

Insert **"relating to the right to refuse administration of COVID-19 vaccines;"**



Page 10, lines 9 - 10:

Delete "PERSONAL OBJECTIONS TO THE ADMINISTRATION OF COVID-19 VACCINES."

Insert "RIGHT TO REFUSE ADMINISTRATION OF COVID-19 VACCINES. (a)"

Page 10, following line 15:

Insert new subsections to read:

"(b) Notwithstanding AS 14.07.020(a)(7) and AS 14.30.125, a school may not require a child attending the school to be immunized against COVID-19.

(c) A common carrier may not require a passenger, as a condition of transport, to be vaccinated against COVID-19. In this subsection, "common carrier" has the meaning given in AS 04.16.125(c).

(d) An employer may not require an employee, as a condition of employment, to be vaccinated against COVID-19. In this subsection, "employee" and "employer" have the meanings given in AS 18.60.105(a).

(e) A business, state agency, or political subdivision of the state may not require an individual to be vaccinated against COVID-19 for the individual to access an area or service that is open to the public. In this subsection, "business" has the meaning given in AS 18.35.399.

(f) A state agency or political subdivision of the state may not adopt or issue a regulation, ordinance, order, or similar policy that requires an individual to be vaccinated against COVID-19 for the individual to exercise a right or receive a benefit that is available to the public."

[4:27:50 PM](#)

REPRESENTATIVE SPOHNHOLZ objected.

[4:27:54 PM](#)

REPRESENTATIVE KURKA explained Amendment 17 makes it clear that Alaskans have the right to choose whether to receive the COVID-19 vaccines. He stated that the vaccines have not gone through the regular approval process at the Food and Drug Administration (FDA) and have been rushed. In a time of extraordinary fear around COVID, he opined, it is important to make it clear that

health care choice is a freedom and people can choose which immunizations they do or don't want to take.

[4:28:46 PM](#)

REPRESENTATIVE SPOHNHOLZ offered her understanding that nobody is being forced to take a vaccine and that vaccines are totally optional right now with the exception that potentially some employers might require them, particularly in the health care arena which she would consider to be a personal responsibility. She further offered her understanding that the approval of the COVID-19 vaccines did go through the traditional FDA process and what happened was that the research and development process was accelerated because everybody in health care science dropped everything else and collaborated. She maintained her objection to Amendment 17.

[4:30:16 PM](#)

CO-CHAIR ZULKOSKY stated that Section 11 includes protections that an individual may object to the administration of a COVID-19 vaccine and that there is no requirement that anybody provide justification for declination. There is no force of law that is requiring the COVID-19 vaccine, she continued, so Amendment 17 seems redundant. She asked Representative Kurka whether she is misinterpreting that.

REPRESENTATIVE KURKA replied that Amendment 17 leaves most of the language in place but makes the language stronger and very clear that Alaskans have the right to choose whether to receive the vaccine. For example, he explained, on page 1, lines 8-9, "personal objections" would be deleted and replaced with "the right to refuse" administration of COVID-19 vaccines because he believes it is a right to choose whether to receive the vaccine and is not just about personal objection.

[4:32:15 PM](#)

REPRESENTATIVE PRAX agreed with Amendment 17's sentiment that no one should be required to accept a vaccine but maintained that [citizens] have the constitutional right to not be forced to do that in the first place. He concurred it is in Section 11, but said he is uncomfortable about precedents that get set. He stated he doesn't want people to get the idea that their right to something comes from the government, the government should just be recognizing rights, which is being done at this point.

He said it is for that reason that the committee should vote against Amendment 17.

[4:33:16 PM](#)

The committee took an at-ease from 4:33 p.m. to 4:40 p.m.

[4:40:48 PM](#)

CO-CHAIR ZULKOSKY reminded members that Representative Spohnholz had previously maintained her objection.

[4:40:58 PM](#)

REPRESENTATIVE KURKA spoke further to Amendment 17. He said Section 11 of Version B "lists personal objections and lists who may not be required, but it doesn't clarify who they might not be required by," and it could be interpreted that it may not be required by the state. He specified that the proposed new subsections in Amendment 17 - (b), (c), (d), and (e) - clarify employers may not require this as a condition of employment. He added that he isn't concerned about this administration which has made it clear that it is not going to require vaccination, only encourage it strongly; his concern is that other actors outside the administration will, and he wants to ensure that the right to decline a vaccine is upheld.

[4:42:08 PM](#)

REPRESENTATIVE SPOHNHOLZ maintained her objection.

[4:42:18 PM](#)

A roll call vote was taken. Representatives Kurka and McCarty voted in favor of adopting Amendment 17. Representatives Spohnholz, Fields, Prax, Zulkosky, and Snyder voted against it. Therefore, Amendment 17 failed by a vote of 2-5.

[4:43:13 PM](#)

REPRESENTATIVE KURKA moved to adopt Amendment 18, [labeled 32-GH1011\B.1, Dunmire, 3/4/21], which read:

Page 1, line 7, following "**shareholders**";:

Insert "**relating to the powers of the governor during a disaster emergency; relating to the powers of municipalities**";

Page 10, following line 21:

Insert new bill sections to read:

**\* Sec. 13.** AS 26.23.020(b) is amended to read:

(b) Except as provided in (1) of this section, the [THE] governor may issue orders, proclamations, and regulations necessary to carry out the purposes of this chapter, and amend or rescind them. These orders, proclamations, and regulations have the force of law.

**\* Sec. 14.** AS 26.23.020 is amended by adding new subsections to read:

(1) The governor may not issue an order, proclamation, or regulation that

(1) requires an individual to stay at home or shelter in place;

(2) prohibits or restricts the operations of a business or a place of worship; or

(3) declares a person or a business as essential or nonessential based on the trade or occupation of the person or business.

(m) In this section, "business" has the meaning given in AS 18.35.399.

**\* Sec. 15.** AS 26.23.140 is amended by adding new subsections to read:

(d) Notwithstanding a local disaster emergency declared under (a) of this section, a municipality may not issue an order, proclamation, or regulation that

(1) requires an individual to stay at home or shelter in place;

(2) prohibits or restricts the operations of a business or a place of worship; or

(3) declares a person or a business as essential or nonessential based on the trade or occupation of the person or business.

(e) In this section, "business" has the meaning given in AS 18.35.399."

Renumber the following bill sections accordingly.

Page 11, line 7:

Delete "this Act is"

Insert "secs. 1 - 12 and 16 - 18 of this Act are"

[4:43:21 PM](#)

REPRESENTATIVE FIELDS objected.

[4:43:22 PM](#)

REPRESENTATIVE KURKA explained that Amendment 18 addresses the issue of government shutdowns and what he calls a clear violation of the Constitution of the State of Alaska ("Alaska Constitution") in terms of religious liberty. He read from Article I, Section 1, of the Alaska Constitution which states that the constitution "is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry". Over the last year, he opined, that was violated in a way never seen by this country and he wants to make it clear that it's not going to happen again with an executive order. He said he has many concerns about [HB 76] and any extension of the governor's executive orders.

[4:44:26 PM](#)

REPRESENTATIVE FIELDS spoke to his objection. He related that the businesses in his district have been affected by capacity limits and other emergency orders, which are local government decisions, not state decisions. He stated that HB 76 does not impose such limitations, nor impose new limits on municipal power, and he is concerned about the bill being used to impose new limits on municipal power and he isn't a fan of unfunded mandates. This bill, he added, is focused on efficient vaccine distribution, and maintaining testing at airports for incoming travelers, which businesses in his district tell him is important. He said he wants Anchorage to be able to continue pulling back on capacity limits and letting businesses function at full capacity which is much more likely to continue if there is testing and efficient vaccine distribution to help keep variants out of Alaska. While he understands the sentiments of Amendment 18, he continued, it isn't what the underlying bill deals with, and he doesn't want to go down the road of relitigating state and municipal power as it relates to public health emergencies. He said he will maintain his objection.

[4:46:46 PM](#)

A roll call vote was taken. Representatives Prax and Kurka voted in favor of adopting Amendment 18. Representatives Spohnholz, Fields, McCarty, Zulkosky, and Snyder voted against it. Therefore, Amendment 18 failed by a vote of 2-5.

[4:46:56 PM](#)

The committee took a brief at-ease.

[4:47:42 PM](#)

CO-CHAIR ZULKOSKY opened public testimony on HB 76, Version B.

[4:48:01 PM](#)

FRANCINE REUTER stated she is not in favor of continuing the emergency order.

[4:48:25 PM](#)

CHANDRA CAFFROY recalled that on 2/14/[21] the governor stated in a press release that he reserved the right to declare another emergency if the data showed a need. She said the data shows a decline in COVID-19 cases and deaths despite expiration of the emergency order and that according to the governor there is no need for another extension or declaration of emergency. She said she represents 125 people meeting across Alaska and about 2,000 people in a Facebook group called Alaskans for Constitutional Rights that oppose the governor's unconstitutional mandates. She stated that in testimony before a Senate committee in early February [2021], Commissioner Crum admitted that none of the items in HB 76 require another emergency order. She asserted that every item can be addressed in separate legislation that does not give the governor unnecessary powers to again trample constitutional rights and circumvent the voice of the people through their elected legislators. She stated that the same or higher value of importance should be given to the will of the people as opposed to the will of businesses and organizations that profit from the continuation of emergency orders and spreading fear. She said the testimony of doctors should not be given unfair weight against the people and the people's inherent rights because Alaskans can assess risk and make their own decisions. She urged for other avenues to be pursued and asked that members vote no on HB 76.

[4:51:02 PM](#)

HERMAN MORGAN urged committee members to vote no on the governor's [proposed] extension. He stated that on 1/20/[21] the World Health Organization reported that there were many false positives, so a lot of people said to have COVID-19 didn't have it. He asserted that a lot of deaths claimed to be from COVID-19 were not. He related that he testified before the

Senate Health and Social Services Standing Committee a week and a half ago where he urged a no vote on the emergency extensions. He maintained that the infection numbers are inflated and that medicines like Ivermectin cure COVID. He further maintained that there is no concern for a hospital bed shortage, which is the argument for emergency orders and lockdowns. He alleged that this is all about receiving federal disaster money and said it shouldn't be that way. He charged that extending the emergency order is an acceptance of \$530 million from the federal government and that most of it goes to the teachers' union lobbyists while Alaska has the lowest scores in the nation.

[4:53:17 PM](#)

KELSA BRANDENBURG testified in support of HB 76. She said she loves that Alaska is leading the way for vaccination distribution. She related that since January [2021] Dillingham has had two mass vaccination events, vaccinating over 700 people, as well as ongoing vaccination appointments and home visits. Dillingham schools were closed for about two weeks due to potential exposure in February. Progress is being made but nothing has really changed, she opined, in that there is still a worldwide pandemic with people dying and getting sick every day everywhere. This past summer Dillingham managed the spread of COVID-19 with some strict ordinances, she stated. The fish processing plant kept to itself, fishermen went directly to their vessels, tourists went directly to their destinations, a 10-day quarantine is required upon arrival, and travel notification forms and masks are required in businesses and public places. To date Dillingham has had 76 positive cases with zero deaths. She offered her belief that without the governor's original declaration, the health mandates, and the advisories, Dillingham's and Alaska's positive COVID-19 cases and mortality rates would be much higher. She said the governor's declaration helped Dillingham and other communities with guidance and assistance to protect themselves from the pandemic; without it, communities would have been scrambling to figure it out on their own. The pandemic cannot be controlled but it can be managed, she continued, and with tourists and fishing season right around the corner, now isn't the time to relax. She urged diligence in continuing to slow the spread of COVID-19 by extending the declaration through passage of HB 76.

[4:55:31 PM](#)

LOUIS IMBRIANI testified that whether HB 76 is passed or not, it is still a Band-Aid that doesn't fix the problem. He said the people who provided invited testimony identified some serious issues with the state just on a regular basis. He asserted that even if the emergency order goes away the people who need the most help will still not have been helped - people struggling with drug and alcohol abuse, people who are hungry or homeless. The red tape that government has put up in different sectors has caused severe inequity to people around Alaska, he continued. He stated he doesn't know what the final solution to the problem is, but that allowing one person to make sweeping declarations [doesn't help] places that might need more support, such as Petersburg, or places like Anchorage that are being held down by unconstitutional orders. He maintained that certain supports are needed and have not been received.

4:57:06 PM

PAMELA FAMISH testified she was sad that Representative Kurka's amendments failed because she feels he is proactive in protecting Alaskans. She urged committee members to not support HB 76 because everyone is "COVIDed out." She related that business owners in Fairbanks have suffered so much, even without lockdowns, and that there has been a mental health toll on the people in her community. She said the federal money [that is received] comes with rules that continue the lockdowns, masking, and what she calls oppression. This perpetuates the problems, she maintained, because the longer the lockdowns the less money is made and then more money is needed from the federal government, which continues the cycle. She urged a no vote on HB 76 to set Alaskans free.

4:59:07 PM

MIKE COONS, President, Mat-Su Chapter, Association of Mature American Citizens (AMAC) Action, testified that the Mat-Su Chapter supported the emergency order originally, but the emergency order has expired, and the governor has still gotten the job done. He said seniors have still received vaccines and the therapeutics of care needed are still being delivered. He stated that the Senate is working on getting the non-COVID issues within [Executive Order 119] done via legislation, which his organization supports. He said the governor is showing those cities that still have their economies closed by mandating masks and lockdowns in the guise of an emergency are not needed. Government must get out of the way, he asserted, this governor did a good job during this pandemic and Alaska is far ahead of



other states and is in a recovery phase. He asked that members not step in front of that recovery and said his organization opposes HB 76 because it is no longer needed.

5:00:21 PM

KATHRYN MAWERY urged a no vote on HB 76 which would extend the emergency order. (Indisc. -- poor phone reception.) She said it is restraining and a power play and that it is time to let people get back to work and provide for their families. She questioned why HB 76 is being discussed and said the state should be opened.

CO-CHAIR ZULKOSKY encouraged Ms. Mawery to submit written testimony due to technical difficulties with phone reception.

5:02:51 PM

BEATRICE HUCK urged that HB 76 not be approved. She said she works for a local emergency department and that she has noticed a decline in patient [numbers] since before the start of COVID-19 and last year's emergency declaration. She opined that if Alaska were in a real emergency state there would be a significant number of patients and her place of work would be overrun, which has not been the case. Since the emergency order ended a month ago the number of patients hasn't gone up. She further related that her teenage son has been at home for the past year unable to socialize in person with other kids and all his learning has been done online. She said her son's health has been negatively affected and he has depression issues and continuing the lockdowns and mandates will not be helpful. She shared that she has friends who have lost their livelihoods because of the lockdowns. Summer is coming and tourism is needed to help the state with revenue, she added, and having a lockdown until the end of summer would cause more harm than good. She urged there not be an extension of the emergency order and that there be some other resolution.

5:05:25 PM

ELIZABETH HOLMES asked that the committee vote no on extending the COVID-19 mandate. She pointed to South Dakota and Texas which have no mandates and said those states are doing well. She said Alaska needs tourism to be opened and urged the committee to vote no.

5:06:05 PM

JONATHAN GALIN testified that HB 76 and extending the COVID-19 disaster declaration is important legislation that needs to be passed now. He maintained that not passing the bill would be foolhardy and irresponsible and would ignore public endangerment. The bill should not and is not about partisan politics, he opined, it is about Alaska's safety. Without an updated public health disaster emergency declaration, he stated, Alaska's healthcare system will not be able to access critical operational flexibilities that have aided in testing, treating, and vaccinating for COVID. He further stated that the lack of emergency declaration further limits cancer patients to telehealth services and lifesaving treatment and that some adverse effects of the declaration's expiration include closure of drive-through COVID-19 testing sites and travelers are no longer required to present a negative COVID-19 test or undergo mandatory testing upon arrival at Alaska's airports. He said the recent mandatory airport testing was made possible by funding through the declaration that has expired. This is a life and death issue, he continued, and the reason Alaska has had tremendous success is because of the past declaration, specifically for mandatory testing. He maintained that if the virus spikes again Alaska's fiscal issues cannot be rectified, nor businesses reopened in a meaningful way.

[5:08:32 PM](#)

LEONARD SABICH testified he opposes HB 76. He said he has watched the past declaration kill things around Alaska. He stated that tourism for this summer is in limbo in Homer, people are depressed including in his own family, and businesses are being killed including his business. He urged that the state be opened and returned to work. He maintained that nothing warrants this oppression against constitutional rights and advocated for the committee vote no on the bill.

[5:09:58 PM](#)

EDWARD MARTIN testified that he just returned from Hawaii after more than a year and that this is because he wouldn't sign a travel document that would further take away his liberties under criminal and civil penalties. He charged that something is seriously wrong to think about extending these powers to a governor who has already abused his authority three times; rather, the legislature should impeach the governor and the commissioner for bringing this scourge on the liberties of Alaskans. He said he doesn't need an education from anyone on

how to stay six feet away from someone else or whether to wear a mask, and that vaccines are the same and legislators cannot force people to do anything. The rights of Alaskans are being deprived under the color of law, he opined, and it is foolish to give the governor this power.

[5:12:00 PM](#)

ADAM HYKES testified in opposition to HB 76. He opined that the reasons and findings on pages 2-3 of the bill are the reasons that he would use to no longer have the emergency declaration and to oppose HB 76. He asserted that the provisions on page 8, line 17, meetings of shareholders, and page 9, line 9, Department of Revenue, are no longer necessary when people can maintain social distance, properly mask, be vaccinated, or receive preventative treatment as ways to beat COVID. This bill is obsolete, he said. Corporations have had a year to get their act together and make this happen themselves; it doesn't need to be legislated. He maintained that there is no piece of the bill that cannot be legislated on its own without a disaster declaration, and therefore it is unnecessary. He further stated that citizens cannot be forced to take an experimental vaccination.

[5:14:09 PM](#)

MARSHALL SEVERSON related that he has read about the 1918 [flu] disaster in history books, which impacted Alaska and the Native community. He noted that "pandemic" means worldwide and for this reason he believes reopening Alaska without an emergency declaration will probably lead the state into another wave of COVID-19 infections with a bad effect on communities. He stated Alaska's Native villages have it right with the mandates they have in effect, and they need the cover of a state emergency declaration. He said he doesn't take his information or recommendations from Texas or South Dakota; Alaska led the way with an emergency declaration. The declaration needs to be extended, so he supports HB 76, he continued. He added that it will be better for Alaska to have the testing and the mandatory quarantines of people coming into the state who are identified as having COVID.

[5:15:56 PM](#)

JENNIFER MEYER testified that she supports HB 76. She stated that the pandemic itself is causing harm, not the public health restrictions that have kept people alive and the spread of

COVID-19 low. If the virus can be controlled, she said, then more normal social and economic conditions can be brought back. She encouraged the committee to support HB 76 because in public health response the ability to move quickly is critical to contain a virus, and the emergency declaration allows that to be done. Without a declaration in place, she continued, it takes a tremendous amount of time and energy to go through the regulatory process and the delicate window is often missed. She said that while the numbers in Alaska overall may be going down, the reproductive rate is increasing in several regions of the state. Until 80 percent or more of the population is vaccinated, the state isn't out of the woods, she added.

[5:17:54 PM](#)

JESSIE CHILSTROM testified in opposition to HB 76. She asked that the emergency declaration not be extended and stated that it is too much government, too much strain on the budget, too much strain on the taxpayers, too much strain on the businesses, and too much stress for the students. She said COVID-19 numbers have gone down, and medical technology has improved, so HB 76 is not needed. She added that she supports the amendments proposed by Representative Kurka because medical freedom is paramount.

[5:18:40 PM](#)

ANNIE MASSEY first noted she is the parent of three children, two in the Anchorage School District. She stated she opposes HB 76 and asserted there is no emergency disaster. The true disaster for Anchorage, she continued, has been the denial of in-person education for a year, the loss of Anchorage's economy, businesses closing and residents losing jobs, and the mental health crisis for [Alaska's] youngest. She asked that [Alaska's] government empower citizens to pursue life, liberty, and happiness, and to protect the freedoms of Alaskans to grow, build, work, and play. She maintained that extending the disaster order ignores that individual responsibility is essential in [Alaska's] democratic republic. Lockdowns and masking are unconstitutional and put Alaskans at risk to domestic and foreign enemies in every way possible, she opined, and Alaskans are more at risk to a tyrannical power in government than a virus. They act as a trojan horse for deliberate corruption, she charged, and Alaska's leaders need to acknowledge that and protect Alaskans' freedom.

[5:20:25 PM](#)

CO-CHAIR ZULKOSKY closed public testimony after ascertaining no one else wished to testify.

CO-CHAIR ZULKOSKY invited committee discussion of the proposed CS for HB 76, Version B.

5:20:44 PM

REPRESENTATIVE FIELDS stated that summer is approaching and keeping the decline in cases is needed to save Alaska's economy and to reopen schools. He said his district has been hit harder than others because of its reliance on tourism and another COVID-19 surge will put even more businesses out of business. Businesses that have been open for generations are struggling to survive, he continued, businesses must be saved, and the virus must be defeated. He stated that dangerous virus variants are out there and cannot be stopped without testing at the airports. He further stated that the virus cannot be defeated without efficient distribution of vaccines. He urged that the good work to date be kept up and the needed levels be reached for defeating the virus. He said HB 76 is about defeating COVID-19 and helping businesses survive, it has nothing to do with lockdowns, and to open the state the virus must be defeated.

REPRESENTATIVE FIELDS related that the message he has heard over the past month and a half from restaurant owners, oil field service companies, and local tourism companies in his district is to extend the disaster declaration. He said these businesses have told him that when working on the North Slope the variants need to be stopped at the airport, that cases need to be kept low for tourism companies so people can travel to Alaska and spend money, and that cases need to go lower so people can return to restaurants and dine inside again. He offered his appreciation to the businesses in his district for reaching out and said he will strongly support extending the declaration. He further related that local religious organizations that distribute food to hard hit families have told him they are seeing a doubling or tripling of families that are going hungry. He pointed out that with this bill millions of dollars from the federal Supplemental Nutrition Assistance Program (SNAP) are available to Alaska, which reduces the tax burden on Alaskans. He added that hungry kids cannot do well in school and reiterated his support for HB 76.

5:22:56 PM

REPRESENTATIVE MCCARTY stated that COVID-19 is real. He shared that when he flew back to Alaska from Cambodia on Thanksgiving Day 2019 the airport in Shanghai was nearly empty while the Los Angeles and Anchorage airports were very busy. What was happening, he said, was that COVID-19 was already hitting China at that time and until March [2020], when it was revealed to be in the U.S., people here had already gotten COVID-19 but didn't know what it was other than they were very sick. The effects of this disease have been like that of the Spanish Flu in 1918, he continued, and over time the world has found different ways to deal with this virus and is improving in doing so.

REPRESENTATIVE MCCARTY said the question is whether Alaska is still in the situation of a crisis - are the numbers going down? He related that he is a skeptic and therefore looks at the data to see what is going on, and currently the data shows numbers dropping way below being in a disaster. He asked what the problem is if the virus is being contained, there are vaccines, and there are methods of dealing with the virus. He said the impact of this on state, the state's economy, and the ability for people to function needs to be looked at and that it is time to release Alaska back to operating. Alaskans are more aware of hygiene than ever before, he added, so sanitizers will continue being used. This is the time for Alaska to move forward, he opined, and not be stuck in fear of false evidence appearing real. The data shows numbers going down. The question to ask when numbers are rising, he continued, is whether the numbers are in the severe situation that was seen in March [2020] where people's lives were threatened or whether people have COVID-19 with an influenza type condition, which is what is currently being heard from physicians. People are coming into the hospital but are sent home the same day, whereas in March 2020 they were being kept in the hospital. He stated he will vote no on HB 76 in order to move forward for Alaska.

5:28:50 PM

CO-CHAIR SNYDER appreciated that everyone is tired of COVID. She acknowledged that everyone is exhausted, as heard in today's testimony, but said she doesn't want to pump the brakes right before being crossing the finish line. She specified that the [proposed] CS extends the declaration not the disaster. She noted that Alaska has not been in lockdown in months, businesses have been open, people have been free to go where they like, and kids have gone back to school - all when a declaration was in place. Extending the declaration doesn't change any of this, she said, rather it gives Alaska the ability to ensure continued

testing and vaccinating so the pandemic can finally be ended, and the finish line crossed as Alaska is almost there. It ensures healthcare providers can continue providing needed services without unnecessary risk or prohibitive cost, she added. Providers have stated that they are operating in a grey zone and are not protected with the absence of a declaration. Also, it ensures healthcare providers don't have to hack through bureaucratic hurdles to set up care sites.

CO-CHAIR SNYDER stressed that the declaration ensures Alaska can respond quickly if the decreasing numbers suddenly take an uptick, which was seen in the past few months. Variants are out there, and it would be best if Alaska can be ready, she said. It ensures Alaskans have access to tele-health, access to food through expanded SNAP eligibility, and removes any doubt about Alaska's eligibility for federal relief funds, she continued. It ensures that Alaska can safely promote that it is open for business and can welcome healthy tourists who can help jumpstart Alaska's economy this summer.

[5:31:58 PM](#)

REPRESENTATIVE SPOHNHOLZ stated that Version B is much smaller than the original bill introduced by the governor in January and much smaller than the bill that was passed in March [2020]. She said the proposed CS is a measured compromise that doesn't contain many of the elements that were included in [Senate Bill] 241 and doesn't include many of the things asked for by the governor, including many of the open-ended receipt authorities that gave the governor a completely undefined authority to spend money. Also, she specified, it doesn't force mask mandates, vaccinations, or business closures.

REPRESENTATIVE SPOHNHOLZ stated that Version B gives the administration some flexibility to license healthcare workers, provide some regulatory stability for healthcare providers and hospitals, and to deploy resources as needed for testing and vaccination clinics; for example, in Anchorage an outdoor vaccination clinic has been contracted. Providence Hospital is considering pulling back on the Alaska Airlines COVID-19 vaccination and testing facility, she continued. This looks like a bit of risk, she opined, as it seems the hospital should be allowed to do that if it is needed. She said the proposed CS allows Alaska to receive federal resources that other states are going to get if Alaska doesn't receive them, and she wants hungry Alaskans to be able to receive those SNAP benefits.



REPRESENTATIVE SPOHNHOLZ said Version B allows for required testing at Alaska airports which, she argued, keeps Alaska open for business. Tourism is a huge industry in Alaska, she continued, with Southeast Alaska the most economically impacted region by COVID-19 because it is so reliant on the fishing industry and tourism. Not being able to test people as they come into the state means Alaska is not going to be able to be as aggressive with its tourism plan. She pointed out that 20 percent of Alaska's workers don't live in Alaska and said ensuring these workers get tested will identify variants and positive cases as they come into the state. For example, she related, Director Hedberg [Division of Public Health] has said 3,000 cases were found that way. It is important that small towns be able to protect themselves while still ensuring that Alaska can be open for business, she opined. There is a lot of flexibility and freedom and the reins have been taken back on unencumbered power, she said, so the proposed CS is a measured and important compromise.

[5:35:15 PM](#)

REPRESENTATIVE KURKA concurred with Representative McCarty's comments that COVID-19 is real and that when this came out in March [2020] there was much fear and lack of information. However, he said, the mortality rate is now low, there is information, and there are more treatment options. [Previously] the concern was to flatten the curve so that the healthcare system wouldn't be overwhelmed and people needing treatment to survive could get that treatment. But, he stated, Alaska doesn't have that problem and passing this bill would be a mistake. The incalculable damage that the declaration has caused might not be known for a long time, he opined. He agreed that Version B is scaled back from what was passed originally and what was asked for originally but said he understands the governor has withdrawn his support from this bill and is doing a scaled back request for authorizations outside of a disaster declaration. He stated he therefore doesn't see a need for the bill and because he doesn't believe Alaska is in a true state of emergency, he will vote no.

[5:36:52 PM](#)

REPRESENTATIVE PRAX agreed that Version B is structured more to enable state agencies to respond and there is no intent from the governor's office to impose restrictions. He said it was too bad about having to start the [previous] mandates but that he had concurred with them despite knowing there would be this



reaction. Care needs to be taken so another outbreak doesn't get going, he continued. Whether or not it's an emergency, it will affect the desire of people to live here, and said he hopes his neighbors take it upon themselves to follow the guidelines and cover their noses when sneezing and wear masks when around others. He offered his understanding that when people are forced to do something it causes an overreaction both ways. This has become an emotional issue, and the facts don't seem to matter for either way, he opined. While he is of two opinions on this, he said the bill should at least be passed out of committee, and he will do some research on the statistics and think further. He stated he would like to be able to complete the response without the emergency but is unsure whether that can be done.

5:39:18 PM

CO-CHAIR ZULKOSKY noted that promising numbers are being seen, treatments are being better utilized in the hospitals for people with severe COVID-19 infections, and there are now vaccinations. But, she continued, an analogy previously provided to the committee was that "we should not be ending a seven-day penicillin prescription three days into that prescription because we are starting to feel better." She said she continues to believe in the importance of remaining nimble. Healthcare is a highly regulated industry and Alaska is geographically positioned in a way that gives the state advantage to keeping variants at a minimum if they can be identified quickly. She said she believes that providing the tools needed for communities, hospital systems, and the state to continue to respond to a global pandemic is necessary. She related she agrees with the exhaustion that families are feeling but also identifies with the sorrow of families that had to say good-bye to a loved one. She pointed out that it is a viral infection, so unlike a bacterial infection there is no treatment. She stated that for those reasons she will support the proposed CS in the context of ensuring the tools that communities and organizations need to continue responding to the pandemic.

5:41:40 PM

CO-CHAIR SNYDER moved to report CSHB 76, Version 32-GH1011\B, Dunmire, 3/3/21, out of committee with individual recommendations and the accompanying fiscal notes.

5:41:55 PM

REPRESENTATIVE KURKA objected.

[5:42:05 PM](#)

A roll call vote was taken. Representatives Prax, Spohnholz, Fields, Zulkosky, and Snyder voted in favor of the motion to report CSHB 76, Version 32-GH1011\B, Dunmire, 3/3/21, out of committee with individual recommendations and the accompanying fiscal notes. Representatives Kurka and McCarty voted against it. Therefore, CSHB 76(HSS) was reported from the House Health and Social Services Standing Committee by a vote of 5-2.

[5:43:24 PM](#)

REPRESENTATIVE PRAX related that according to the Fairbanks North Star Borough website the borough had been bouncing along in the low-intermediate risk area for nearly a month, but over the last week cases have gone up and risk level is now intermediate. He said this drives home the point that people shouldn't be complying because government told them to but rather thinking about their neighbors and doing what can be done to control this disease.

[5:44:26 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:44 p.m.